

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CHAMBERS OF
CATHY L. WALDOR
UNITED STATES MAGISTRATE JUDGE

MARTIN LUTHER KING COURTHOUSE
50 WALNUT ST.
ROOM 4040
NEWARK, NJ 07101
973-776-7862

REPORT & RECOMMENDATION

Re: D'Angelo v. New Jersey Department of Corrections et al
Civil Action No. 2:14-cv-5693-SRC-CLW

As set forth on the record on August 30, 2017 Plaintiff, Thomas D'Angelo, has repeatedly failed to appear for in-person conferences and has continued to ignore several court orders. Defense counsel informed the Court of difficulties taking Plaintiff's deposition in March 2017. On two separate occasions Mr. D'Angelo's deposition was scheduled and subsequently canceled. (*See* ECF No. 47.) In June Plaintiff counsel, B. David Jarashow, made a Motion to Withdraw because of "significant differences" that has arisen with this client. (*See* ECF No. 50.) According to Plaintiff counsel, Mr. D'Angelo refused to discuss a substitution of counsel and hung up the phone on Mr. Jarashow when he tried to call him about the motion. (*See* ECF No. 50.)

This Court held an in-person status conference on June 24, 2017. Plaintiff was ordered to be present to address his counsel's request to withdraw (ECF No. 51). Plaintiff's counsel certified that he made Mr. D'Angelo aware of this conference as well as his Motion to Withdraw via certified mail (ECF No. 53). Mr. D'Angelo did not appear on June 24, 2017, nor did he contact the Court or his counsel regarding the order.

On June 24, 2017 this Court issued an order (ECF No. 54), requiring Plaintiff to appear on August 30, 2017 and show cause as to why his case should not be dismissed for failure to prosecute pursuant to Local Civil Rule 41.1(a). The order specifically indicated that should Plaintiff fail to appear the Court, in its discretion, would dismiss the case with prejudice. Plaintiff's former counsel, B. David Jarashow was ordered to transmit the order to Mr. D'Angelo. Mr. D'Angelo did not appear in court on August 30, 2017. To date he has made no showing to this Court in writing or by any other means as to why his case should not be dismissed. Plaintiff has time and time again flagrantly ignored this Court's orders and made no effort to prosecute his case with and/or without the assistance of his counsel. Based on the foregoing, the Court respectfully recommends that the District Judge dismiss this case with prejudice, for failure to prosecute pursuant to Local Civil Rule 41.1(a) or to otherwise comply with court issued orders.

SO ORDERED

Dated: August 31, 2017

s/Cathy L. Waldor
CATHY L. WALDOR
United States Magistrate Judge